

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of:	)	
	)	
Pappas Southern California License, LLC	)	
	)	CSR-5823-M
v.	)	
	)	
Communication Services	)	
	)	
Request for Mandatory Carriage of	)	
Television Station KAZA-TV,	)	
Avalon, California	)	
	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: March 8, 2002**

**Released: March 13, 2002**

By the Chief, Consumer Protection and Competition Division, Cable Services Bureau:

**I. INTRODUCTION**

1. Pappas Southern California License, LLC ("Pappas"), licensee of television broadcast station KAZA-TV, Channel 54, Avalon, California ("KAZA" or the "Station") filed the above-captioned must carry complaint against Communication Services ("CS"), for failing to carry KAZA on its cable system serving Point Mugu, California. No opposition to the complaint was received.

**II. BACKGROUND**

2. Pursuant to Section 614 of the Communications Act and implementing rules adopted by the Commission in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, Broadcast Signal Carriage Issues ("*Must Carry Order*"), commercial television broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station's market.<sup>1</sup> A station's market for this purpose is its "designated market area," or DMA, as defined by Nielsen Media Research.<sup>2</sup> A DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns.

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<sup>1</sup> 8 FCC Rcd 2965, 2976-2977 (1993).

<sup>2</sup> Section 614(h)(1)(C) of the Communications Act, as amended by the Telecommunications Act of 1996, provides that a station's market shall be determined by the Commission by regulation or order using, where available, commercial publications which delineate television markets base on viewing patterns. *See* 47 U.S.C. § 534(h)(1)(c). Section 76.55(e) requires that a commercial broadcast television station's market be defined by Nielsen Media Research's DMAs.

3. Pursuant to the Commission's must carry rules, cable operators have the burden of showing that a commercial station that is located in the same television market is not entitled to carriage.<sup>3</sup> One method of doing so is for a cable operator to establish that a subject television signal, which would otherwise be entitled to carriage, does not provide a good quality signal to a cable system's principal headend.<sup>4</sup> Should a station fail to provide the required over-the-air signal quality to a cable system's principal headend, it still may obtain carriage rights because under the Commission's rules a television station may provide a cable operator, at the station's expense, with specialized equipment to improve the station's signal to an acceptable quality at a cable system's principal headend.<sup>5</sup>

### III. DISCUSSION

4. In support of its complaint, KAZA states that it is a full power television station licensed to Avalon, California, which is in the Los Angeles DMA.<sup>6</sup> It states further that CS operates a cable television system, which is also in the Los Angeles DMA.<sup>7</sup> KAZA asserts that it formally requested that CS commence carriage of its signal on the cable system at issue.<sup>8</sup> KAZA claims that CS did not properly respond to its request for mandatory carriage in violation of the Commission's rules, which require cable operators to respond in writing to requests for carriage within 30 days of receipt of such request.<sup>9</sup> KAZA argues that the Commission's rules require a signal deficiency notification from a cable operator to a television station to include detailed information regarding reception and over-the-air signal processing equipment used, and a description of the methodology used by the operator for processing the signal at issue.<sup>10</sup> KAZA contends that CS' September 13, 2001 notification did not comply with these requirements.<sup>11</sup> KAZA requests that the Commission order CS to commence carriage of its signal on the cable system in question and commits to be responsible for the costs of delivering a good quality signal to the system's headend.<sup>12</sup>

5. Section 76.55(e) of the Commission's rules provides that commercial television broadcast stations, such as KAZA, are entitled to carriage on cable systems located in the same DMA.<sup>13</sup> As noted above, cable operators have the burden of showing that a commercial television station that is located in the same television market is not entitled to carriage.<sup>14</sup> We find that CS has failed to meet its

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<sup>3</sup> See *Must Carry Order*, 8 FCC Rcd at 2990.

<sup>4</sup> 47 C.F.R. § 76.55(c)(3).

<sup>5</sup> *Must Carry Order*, 8 FCC Rcd at 2991.

<sup>6</sup> Complaint at 2.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at Exhibits A, C.

<sup>9</sup> Complaint at 2-4. See 47 C.F.R. § 76.61(a)(2).

<sup>10</sup> See 47 C.F.R. § 76.61(a)(2).

<sup>11</sup> CS' letter stated that it did not receive a usable signal at its Point Mugu headend. The letter noted that the operator used "both a parabolic and quad array type UHF antenna and [did] not receive a strong enough signal at [KAZA's] frequency to provide a TASO grade 1 picture (S/N 46 db or better with no multipath)." Complaint at Exhibit D.

<sup>12</sup> Complaint at 4-5; see 47 C.F.R. § 76.55(c)(3).

<sup>13</sup> 47 C.F.R. § 76.55(e).

<sup>14</sup> See *Must Carry Order*, 8 FCC Rcd at 2990.

burden. CS' response to KAZA's carriage request did not comport with the Commission's rules regarding signal deficiency notifications. The Commission's rules require that a cable operator, when notifying a television station of signal deficiency, must provide a detailed description of the reception and over-the-air signal processing equipment used, including sketches and a description of the methodology used by the operator for processing the signal at issue.<sup>15</sup> CS' September 13 letter only stated that KAZA's signal was of poor quality and did not include the required diagrams and information with regard to CS's testing methods. As a result, CS' September 13 letter was insufficient to act as a signal deficiency notification letter. In addition to its failure to adequately deny KAZA's carriage request, we note that CS did not file an opposition to KAZA's must carry complaint. In light of CS' failure to meet its burden demonstrating why KAZA is not entitled to mandatory carriage on CS' Point Mugu system, and KAZA's commitment to providing a good quality signal to the system headend, we grant KAZA's complaint.

#### IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED**, pursuant to Section 614 of the Communications Act of 1934, as amended (47 U.S.C. § 534), that the must carry complaint filed by Pappas Southern California License, LLC, licensee of television broadcast station KAZA-TV, Avalon, California, against Communication Services **IS GRANTED**.

7. **IT IS FURTHER ORDERED** that CS **SHALL COMMENCE CARRIAGE** of the KAZA signal on its cable system serving Point Mugu, California, within sixty (60) days from the date of the release of this *Order*.

8. This action is taken pursuant to authority delegated by Section 0.321 of the Commission's rules.<sup>16</sup>

FEDERAL COMMUNICATIONS COMMISSION

Deborah E. Klein, Chief  
Consumer Protection and Competition Division  
Cable Services Bureau

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<sup>15</sup> *Id.*; see also 47 C.F.R. § 76.61(a)(2).

<sup>16</sup> 47 C.F.R. § 0.321.